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May 13, 2024

VIA CM/ECF

Hon. Mark Langer, Clerk
U.S. Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, NW
Washington, DC 20001

Re: *City of Port Isabel, et al. v. FERC*, Nos. 23-1174 *et al.* – Response to
May 1, 2024 Rule 28(j) Letter (oral argument scheduled for May 17,
2024)

Dear Mr. Langer:

As FERC explains, *Alabama Municipal Distributors Group v. FERC*, No. 22-1101, forecloses Petitioners' GHG-related arguments. There, as here, Sierra Club argued on appeal that: (1) "FERC's refusal to pass judgment on the significance of greenhouse gas emissions was arbitrary;" (2) FERC should have made a significance determination "based on the social cost of carbon," or alternatively "made an ad hoc determination of significance" as FERC did in *Northern Natural Gas Co.*, 174 FERC ¶ 61,189 (2021); and (3) FERC's analysis of the public convenience and necessity under the Natural Gas Act was inadequate because it failed to indicate "whether or how" GHG emissions factored in that analysis and that "the reasoning behind FERC's public interest and necessity conclusion cannot reasonably be discerned." Pet'rs' Br. 55-56, 59 (citing *Northern Natural*), 62-63, *Alabama Municipal*, No. 22-1101 (D.C. Cir. Apr. 26, 2023) (Doc. 1996585) (capitalization omitted).

This Court necessarily rejected Sierra Club's arguments and denied the petitions for review in all respects, finding "[a]ll of FERC's decisions in th[at] case"

to be “reasonable and reasonably explained.” *Alabama Municipal*, slip op. 2-3, 11-14. There is close alignment between the arguments pressed here and in *Alabama Municipal*, and in FERC’s analysis in both proceedings. *Contra* Pet’rs’ 5/9/2024 Letter at 1 (Doc. 2053657); *cf. Tenn. Gas Pipeline Co.*, 178 FERC ¶ 61,199 PP 91-92 & n.141 (2022) (order on review in *Alabama Municipal*; discussing 40 C.F.R. § 1502.21(c) and explaining why FERC was not relying on social cost of carbon for project-level NEPA analysis in that case).

Respectfully submitted,

/s/ Jeremy C. Marwell
(by permission)

/s/ Varu Chilakamarri

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cc: All Counsel of record (via CM/ECF)

CERTIFICATE OF COMPLIANCE

1. This letter contains 250 words, excluding the parts of the letter exempted by Federal Rule of Appellate Procedure 32(f).

2. This letter complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because this letter has been prepared in a proportionally spaced typeface using Microsoft Office 365 in Times New Roman 14-point font.

Date: May 13, 2024

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CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure, I hereby certify that, on May 13, 2024, I electronically filed the foregoing letter with the Clerk of the Court for the U.S. Court of Appeals for the D.C. Circuit using the appellate CM/ECF system and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

Date: May 13, 2024

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